



**AZPOST**  
**INTEGRITY BULLETIN**  
**Volume No. 3**



The Arizona Peace Officer Standards and Training Board (AZPOST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. This charge, to protect the public by overseeing the integrity of Arizona's law enforcement officers, is met by reviewing cases and taking action against the certification of individuals who violate the AZPOST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **March 15, 2000** public meeting. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Bulletin is being published to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

**CASE NO. 1**

**BRIBERY**

Deputy Chicago was working traffic enforcement on a rural highway when he observed a speeding vehicle occupied by a Japanese citizen and his family. Upon stopping the vehicle and explaining the violation to the driver, Mr. Tokyo, Deputy Chicago handed the violator an envelope and told him to place the \$72 fine in the envelope, which Mr. Tokyo did and returned the envelope to the Deputy. During the traffic stop, Mr. Tokyo's family was somewhat intrigued by the whole experience. In fact, they had Deputy Chicago pose for a photo opportunity. Mr. Tokyo and his family were allowed to leave the scene without receiving a citation or a receipt for the \$72. The next day, Mr. Tokyo decided to stop another officer and inquire as to what he should do in order to get a receipt for the money he had given to Deputy Chicago. This officer was more than happy to assist Mr. Tokyo, especially after Mr. Tokyo produced the photograph. After being confronted with the picture, and a polygraph, Deputy Chicago admitted that he had taken the \$72 from Mr. Tokyo so that he could take his wife out for a nice birthday dinner. The AZPOST Board accepted Deputy Chicago's permanent voluntary relinquishment of his peace officer certification, even though these facts were alleged, but not proven.

**CASE NO. 2**

**THEFT/CREDIT CARD FRAUD**

During a traffic stop, Deputy Washington copied down a credit card number belonging to a motorist from Broken Arrow, Oklahoma. Deputy Washington later used the credit card number without authorization to charge over \$1,500.00 worth of "adult entertainment telephone services" from his residence. The Board revoked the certification of Deputy Washington.

**CASE NO. 3**

**MALFEASANCE/LYING**

Officer Vegas had terminated a flirtatious affair with a married man. The police received a call of a domestic disturbance at the residence of that married man. Officer Vegas was one of the officers that responded to the call. Upon arrival at the scene it was determined that an assault had occurred and that the suspect had fled the scene. After getting off duty, Officer Vegas received a telephone call from the suspect and then responded to his location in her own personal vehicle and picked up and transported the suspect out of the jurisdiction. She did this knowing that he was wanted for Domestic Violence from the mandatory arrest situation. Officer Vegas told the Board that her motivation was to stop harassment she was receiving from her former “boyfriend” and his wife.

During the Internal investigation, Officer Vegas lied to her supervisor regarding the allegation of an intimate relationship with the suspect and about failing to share information with another officer concerning the subject. Officer Vegas told the POST Board that she believed that she could not trust her supervisor, and the truth would be used unfairly against her, so she lied. The AZPOST Board revoked the certification of Officer Vegas.

*\*Editor’s note: Many agencies are looking at their investigatory methods to find the best ways to encourage truth telling and discourage manipulation of the facts. Fair warning of the consequences of lying is a part of this effort.*

#### **CASE NO. 4**

#### **SEXUAL MISCONDUCT/LYING**

Officer Orleans was responsible for the supervision of the prisoners being held in the City Jail. One evening, he allowed a female prisoner out of her cell for the special privilege of obtaining a cup of coffee. While obtaining the coffee, the female prisoner was approached by Officer Orleans who embraced and kissed her. Photographs of Officer Orleans’s actions were obtained from surveillance camera recordings.

The female prisoner was interviewed and related that Officer Orleans had often given her special privileges such as providing her with candy and popcorn and allowing her to shower when such privileges were not afforded to other prisoners. The female prisoner related that although the evening in question is the only physical contact she and Officer Orleans had engaged in, she did catch him looking at her on one occasion as she was drying and getting dressed in the women’s shower area. Both parties submitted to polygraph examinations, she was deemed truthful while he was found to be deceptive. Officer Orleans resigned his department in lieu of termination, and the Board revoked his certification.

#### **CASE NO. 5**

#### **TRAINING**

A termination report for cause was received from a Sheriff’s Office regarding Deputy Hillsdale. The report indicated that Deputy Hillsdale was the subject of both an internal affairs and criminal investigation resulting from allegations that he had inappropriately touched females while executing searches of the females subsequent to traffic stops and had used poor judgement in establishing probable cause for executing vehicle stops and the subsequent searches for possible drugs/narcotics.

An investigation by AZPOST staff concluded that Deputy Hillsdale had used poor judgement in establishing probable cause for executing traffic stops and searches. It was determined that Deputy Hillsdale was deeply motivated by his desire to become a narcotics officer and was attempting to

obtain high statistics in drug related seizures and arrests. Evidence indicated that he had not touched any of the females with sexual intent, and that he had been truthful during all of the investigations. It was also discovered that Deputy Hillsdale was using procedures that were routinely used by his FTO supervisor and other, more senior members of his squad. A Consent Agreement was entered into, that calls for a significant amount of remedial training before Deputy Hillsdale is eligible for reactivation of peace officer certification.

*Editor's Note: It is within the Board's authority to place restrictions on a person's certification. The Board uses this authority to work with agencies and individuals toward mutually beneficial outcomes, so long as the public safety and welfare are not jeopardized.*

#### **CASE NO. 6**

#### **ASSAULT/DISORDERLY CONDUCT**

During a new hire audit concerning the appointment of Recruit Cleveland, two arrests and two resulting convictions were discovered. In 1995, prior to any employment as a peace officer, Mr. Cleveland, while extremely intoxicated, got into a scuffle with a bar bouncer. The authorities were called. Mr. Cleveland kicked the police officers who were arresting him. They were forced to use two stun-guns simultaneously to subdue him. For this arrest Mr. Cleveland pled guilty to disorderly conduct and was sentenced to two days in jail and a \$100.00 fine.

The second arrest occurred in 1999, when Officer Cleveland while on duty and in uniform with a police department in another state, committed assault by threatening to strike another on duty officer with his expandable baton. This altercation involved Officer Cleveland and his estranged wife. Officer Cleveland wanted the couple's vehicle and his wife refused to provide him the keys. Officer Cleveland expanded his ASP baton and threatened to strike the other officer. Officer Cleveland was arrested for simple assault and disorderly conduct. The assault charge was dismissed and Mr. Cleveland pled guilty to disorderly conduct.

Mr. Cleveland requested and was granted a hearing before the Office of Administrative Hearings. The Administrative Law Judge (ALJ) found the commission of two incidents of assault, including assault on a peace officer and assault committed while a peace officer. The ALJ concluded that Mr. Cleveland failed to sustain his burden to prove entitlement to certification. The Board voted to deny certification to Mr. Cleveland.

*\*Editor's Note: The difference between the conviction of a felony, which is an automatic bar to certification, and the commission of a crime involving physical violence is often misunderstood. A person may have committed a felony, but have been convicted of a misdemeanor due to plea bargaining. The misdemeanor conviction would not be an automatic bar to certification, but would be discretionary grounds upon which the Board could deny certification. Usually, the Board considers the nature of the conduct, as well as the nature of the conviction, the degree to which a pattern exists and the time that has passed since the applicant engaged in criminal behavior in deciding whether to deny certification. Additionally, in a denial case, the applicant has the burden of proof and must establish that he is entitled to certification. In discipline cases, the state has the burden of proof.*

#### **FREQUENTLY ASKED QUESTIONS CONCERNING AZPOST**

“There are more cases listed in the AZPOST Board minutes than cases discussed here, what happened to the other cases?”

*Some of the cases upon which the Board has initiated action are handled through Consent Agreements. The most common is the “Voluntary relinquishment.” For example, at this month’s meeting, the Board accepted the voluntary relinquishment from an officer who is being investigated for Domestic Violence. He has chosen to resign from his agency in-lieu of termination and then chose to relinquish his certification. This happens quite often and has the same effect as a revocation, but offers the officer the protection of not having a finding of fact associated with bad behavior. The Board usually accepts these agreements as it saves all the parties time and money.*

“Why is it that only officers and deputies get in trouble with AZPOST, people with rank do things wrong too?”

*So far this has just been the “luck of the draw”. AZPOST does not care about the rank an individual holds and has in the past taken action against every rank including a Chief of Police. Remember that there are more line officers than any other rank and when coupled with the applicants, the statistical opportunity is much greater for these individuals to be brought before AZPOST. The editor will try to take notice as to the rank of the individuals in future bulletins.*

“Is there an appeal process?”

*Long before a case gets to the appeal stage, an officer has ample opportunity to challenge the allegations against him/her. First, a Complaint is issued which states what facts are alleged (just what the officer is alleged to have done) and what specific POST rules that conduct is alleged to violate. The officer is served with the Complaint and may request a hearing. If he requests a hearing, the case is transferred to the Office of Administrative Hearings to be heard by an independent Administrative Law Judge (ALJ). The ALJ conducts a trial-type proceeding where the state and the officer may present evidence, cross-examine and make legal and factual arguments to the ALJ. The ALJ renders written Findings of Fact and Conclusions of Law that are considered by the POST Board before a decision is made. The Board chooses whether to adopt the Findings and Conclusions, and then whether to take no action against the certification, to suspend certification for up to three years, or to revoke certification permanently. After all of this, if the Board decides to revoke or suspend certification, the officer still has administrative remedies before the appeal process kicks in. There is a time frame for the officer to request a rehearing or review. There are specific grounds upon which an officer may make such a request, and those grounds are set out in the rule and pointed out to the officer in the Decision of the Board. If the officer follows the rules regarding rehearing or review and is still not satisfied with the decision of the Board, there is an appeal to the Superior Courts called a Judicial Review Action. There have been very few of these over the past 25 years, and none has overturned a Board decision, perhaps because the standard of review is whether the Board acted in an arbitrary and capricious manner or lacked substantial evidence to support the decision.*